

REMARKS

By the present amendment, Applicant has amended Claims 1-4 and 10-12, and canceled Claims 5-9. Claims 1-4 and 10-12 remain pending in the present application. Claims 1 and 10 are independent claims.

Applicant appreciates the courtesies extended to Applicant's representative during the personal interview held April 5, 2005. The present response summarizes the agreement reached. At the interview a proposed amendment to the claims was presented and a model of the invention, as depicted in Fig. 1, was exhibited.

Proposed amended independent Claims 1 and 10 set forth, in part, a pry bar including an elongated arcuate lever, a bifurcated claw and a gripping member. The proposed amended claims further specified that the front and rear ends of the lever defined a length therebetween, and Claim 1 and 10 defined the gripping member as being adjacent the rear end of the lever.

Arguments were advanced that the applied prior art reference to Heath failed to anticipate or render obvious the embodiments of the proposed amended independent claims. Specifically, the device described in Heath does not have the handle adjacent to the rear end of the lever, as set forth in the proposed independent Claims 1, 5, and 10. The Examiner indicated that further defining the position of the gripping member as -- being disposed entirely in the rearmost half of the length of the lever -- would serve to distinguish the claimed invention over the applied prior art of record. The Examiner's helpful suggestions are appreciated and have been incorporated into the present amendment to the extent indicated herein.

In the Office Action dated February 3, 2005, the Examiner rejected Claims 1, 2, 5, 7, 8, 10, and 11 under 35 U.S.C. 102(b), as being anticipated by Heath. Claims 3, 9, and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Heath. Claims 4 and 6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Heath in view of Lyne, Jr.

The claims in this application have been revised to more particularly define Applicant's unique construction in view of the prior art of record and the aforementioned interview. Reconsideration of the claims in light of the present amendment and for the following reasons is respectfully requested.

Applicant has amended independent Claim 1 to substantially incorporate the subject matter of Claim 2, and to further define the relative position of the gripping member. Specifically, amended Claim 1 sets forth a pry bar that comprises an elongated arcuate lever, a bifurcated claw and a gripping member. The lever is defined as having a front end, a rear end, a top surface, and a bottom surface, with the front and rear ends defining a front half section and a rear half section extending therebetween, wherein the front end extends substantially beyond the rear section of the lever, and wherein the top and bottom surfaces converge at the front end to form a sharp tip for wedging the pry bar underneath material to be removed. The bifurcated claw is set forth as being disposed at the front end of the lever, with the claw having a fastener receiving notch centrally defined therein and first and second fastener engaging members located on respective sides of the notch. The gripping member is claimed as being fixedly secured to the top surface and disposed entirely within the rear section of the lever, and as including a horizontally disposed handle and a pair of vertical support members depending from opposite ends of the handle. Amended independent Claim 10 corresponds substantially in scope to that of Claim

1, but includes the limitation that the lever is made of recycled leaf spring. These rejections are respectfully traversed. Care has been exercised to ensure that no new matter be introduced by the present amendment to the claims.

The applied reference to Heath discloses a device for driving and drawing tacks used by draftsmen to hold drawing sheets in place. The device described in Heath has a U-shaped handle and an arcuate base. At each end of the arcuate base is a centrally disposed slit. The legs of the U-shaped handle are attached to the arcuate base at a position above the slits, so as to provide the direction of the applied driving or drawing forces at the slit. In contrast, the presently claimed pry bar includes a lever having a front half section and a rear half section extending between the front and rear ends, such that the front end extends substantially beyond the rear section, and the gripping member is disposed entirely within the rear section of the lever. Applicant pry bar provides increase leverage with less force, and easily wedged underneath building material that needs to be lifted and removed. Clearly, Heath's device is structurally and functionally unrelated to Applicant's pry bar as defined by the present claims.

The reliance on the reference to Lyne, Jr. for its teaching of recycled materials is noted. However, this secondary reference fails to remedy the above noted deficiencies of the primary reference. Therefore, one skilled in the art would not be capable of arriving at the presently claimed invention in light of the teachings afforded by Heath, or by combining the references in the manner suggested by the Examiner. Applicant respectfully submits that, for at least these reasons and as agreed upon at the aforementioned interview, independent Claims 1 and 10 and corresponding dependent 2-4 and 11-12 are allowable over the prior art of record.

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For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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